

## SENATE BILL NO. 310

INTRODUCED BY J. O'NEIL

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PAY THE COST OF PRESCRIPTION DRUGS PURCHASED FROM OUTSIDE THE UNITED STATES THAT ARE DISTRIBUTED AS PART OF THE MONTANA MEDICAID PROGRAM WHETHER OR NOT AN IMPORTER, WHOLESALER, OR RETAILER INVOLVED IS LICENSED BY THE UNITED STATES OR MONTANA; AUTHORIZING THE DEPARTMENT OF CORRECTIONS TO PURCHASE DRUGS FROM OUTSIDE THE UNITED STATES FOR DISTRIBUTION TO PERSONS SENTENCED TO FACILITIES OF THE DEPARTMENT WHETHER OR NOT THE DEPARTMENT OR AN IMPORTER, WHOLESALER, OR RETAILER INVOLVED IS LICENSED BY THE UNITED STATES OR MONTANA; EXEMPTING CERTAIN WHOLESALERS AND RETAILERS OF PRESCRIPTION DRUGS FROM STATE LICENSING REQUIREMENTS; AMENDING SECTIONS 37-7-603 AND 37-7-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 37-7-603, MCA, is amended to read:

**"37-7-603. Prohibited purchase or receipt of drugs -- restrictions on wholesale drug distributors -- penalty.** (1) Except as otherwise provided, it is unlawful for a person to knowingly purchase or receive a prescription drug from a source other than a person or entity licensed under this part.

(2) Licensed wholesale drug distributors other than pharmacies may not dispense or distribute prescription drugs directly to patients.

(3) A person who violates the provisions of this section is guilty of a misdemeanor.

(4) This part does not apply to a person or entity engaged in the wholesale distribution of prescription drugs to be distributed pursuant to [section 4 or 5]."

**Section 2.** Section 37-7-702, MCA, is amended to read:

**"37-7-702. Out-of-state mail service pharmacy defined.** "Out-of-state mail service pharmacy" means a pharmacy located outside this state that, except as provided in [section 3]:

(1) ships, mails, or delivers by any lawful means a dispensed legend drug to a resident in this state

1 pursuant to a legally issued prescription;

2 (2) provides to a resident of this state information on drugs or devices that may include but is not limited  
3 to advice relating to therapeutic values, potential hazards, and uses; or

4 (3) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of  
5 drugs."

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7 **NEW SECTION. Section 3. Application to Montana medicaid program and department of**  
8 **corrections.** This part does not apply to an individual or entity engaged in the manufacture or distribution of  
9 prescription drugs to be distributed or paid for pursuant to [section 4 or 5].

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11 **NEW SECTION. Section 4. Department authorized to pay for foreign prescription drugs.** The  
12 department of public health and human services may, subject to those internal controls it may determine to  
13 adopt, pay vendors of prescription drugs for drugs imported from outside the United States and distributed as  
14 part of the Montana medicaid program. The department may pay for the drugs whether or not an importer,  
15 wholesaler, or retailer vendor involved is licensed by the United States or in accordance with the laws of this  
16 state.

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18 **NEW SECTION. Section 5. Department purchase of foreign prescription drugs.** The department  
19 of corrections may, subject to those internal controls it may determine to adopt, purchase drugs from outside  
20 the United States for distribution to persons sentenced to the department or the department's facilities. The  
21 department may purchase the drugs whether or not the department, an importer, wholesaler, or retail vendor  
22 involved is licensed by the United States or in accordance with the laws of this state for the purposes of the  
23 distribution of the drugs.

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25 **NEW SECTION. Section 6. Codification instruction.** (1) [Section 3] is intended to be codified as an  
26 integral part of Title 37, chapter 7, part 6, and the provisions of Title 37, chapter 7, part 6, apply to [section 3].

27 (2) [Section 4] is intended to be codified as an integral part of Title 53, chapter 6, and the provisions of  
28 Title 53, chapter 6, apply to [section 4].

29 (3) [Section 5] is intended to be codified as an integral part of Title 53, chapter 30, and the provisions  
30 of Title 53, chapter 30, apply to [section 5].

2 NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.

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